

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Wireless Telecommunications Bureau Seeks)	WT Docket No. 15-180
Comment on Proposed Amended Nationwide)	
Programmatic Agreement for the Collocation)	
of Wireless Antennas)	

COMMENTS OF EXTENET SYSTEMS, INC.

ExteNet Systems, Inc. (“ExteNet”)¹ respectfully submits these comments in the above-captioned proceeding,² which seeks comment on proposed amendments to the 2001 Nationwide Programmatic Agreement for the Collocation of Wireless Antennas that would exclude distributed network (including “DAS” and small cell) deployments from historic preservation review in light of their limited potential to affect historic properties.³ ExteNet strongly supports the proposed amendments which, with minor clarifications and revisions, will further accelerate the delivery of new or enhanced wireless broadband services to consumers.

¹ ExteNet designs, builds, owns and operates distributed networks for use by wireless carriers and property owners in key markets. Using distributed antenna systems, remote radio heads, small cells, Wi-Fi, software-defined network based Evolved Packet Core and other technologies, ExteNet deploys solutions to enhance wireless service and network performance across both outdoor and indoor environments. Primary markets include outdoor distributed networks in a variety of densely occupied urban and suburban environments as well as selected rural areas, and various indoor properties, including sports and entertainment venues, hotels and convention centers, commercial office buildings, healthcare facilities and transit systems.

² Wireless Telecommunications Bureau Seeks Comment on Proposed Amended Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, Public Notice, DA 16-519 (rel. May 12, 2016) (“Public Notice”).

³ See Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, 47 C.F.R. Part 1, App. B (“Collocation Agreement”). The proposed amendments to the Collocation Agreement are attached to the Public Notice as Appendix A. See Public Notice, App. A (“Draft Amended Agreement”).

I. INTRODUCTION

ExteNet has been a longstanding proponent of the Commission's efforts to address wireless facilities siting issues that unnecessarily impede rapid expansion and improvement of the communications infrastructure – particularly distributed network solutions – necessary to meet ever-increasing consumer demand for ubiquitous advanced wireless services.⁴ The need for further Commission action is especially important given the anticipated deployment of 5G technology in the coming years. ExteNet agrees 5G is a “‘hinge moment’ in technological advancement,”⁵ and that distributed networks will play an important role in enabling the swift and responsible deployment of wireless broadband deployments to support 5G.⁶ The proposed Collocation Agreement amendments represent a critical step toward further aligning wireless siting policies with the Commission's desire to remove regulatory obstacles to wireless broadband deployment, including 5G.

ExteNet is a neutral host provider of distributed networks, deploying DAS, small cells and other advanced network solutions to meet the needs of its wireless service provider (“WSP”) customers for enhanced coverage and increased capacity in specified areas, both outdoors and indoors. ExteNet's distributed networks enable its WSP customers and their retail end-user subscribers to benefit from the economies of high capacity network resources that are deployed on shared infrastructure and precisely targeted to where they are most needed. The limited size and adaptability of distributed networks makes them an environmentally sensitive deployment solution, while their ability to enable greater spectrum re-use at lower power makes them an

⁴ See, e.g., Comments of ExteNet Systems, Inc., WT Docket No. 13-238 (Feb. 3, 2014); Comments of ExteNet Systems, Inc., GN Docket No. 09-157 (Sept. 30, 2009); Comments of ExteNet Systems, Inc., WC Docket No. 07-245 (Mar. 7, 2008).

⁵ Public Notice at 1 (quoting FCC Chairman Wheeler).

⁶ *Id.*

efficient solution. Indeed, outdoor distributed networks such as those deployed by ExteNet and other providers are often installed on existing utility support structures and light poles located in the public rights-of-way (“ROW”) or in other utility corridors and easements, making the proposed exclusions for deployments on utility and light structures located in or near historic districts or on historic properties particularly important and beneficial.

Based on its extensive experience with distributed networks, ExteNet appreciates and applauds all the steps the Commission, the U.S. Congress, the federal Executive Branch and certain states and local governments have taken in recent years in order to help reduce unnecessary impediments to rapid and innovative deployment of wireless broadband infrastructure.⁷ In furtherance of those efforts, ExteNet urges the Commission to swiftly adopt the amendments to the Collocation Agreement proposed in the Public Notice, taking into account these comments.

II. EXTENET STRONGLY SUPPORTS THE PROPOSED AMENDMENTS TO THE COLLOCATION AGREEMENT.

ExteNet agrees that Collocation Agreement should be amended to account for the limited potential of small wireless facilities, including DAS, small cells and other advanced network solutions, to affect historic properties. Accordingly, ExteNet strongly endorses the Commission’s proposed exclusion of specified small wireless facility deployments from review

⁷ See, e.g., Brief for PCIA – The Wireless Infrastructure Association as *Amicus Curiae* in Support of Petitioner, *T-Mobile South LLC v. City of Roswell*, S. Ct. No. 13-975, at 3-20 (filed July 10, 2014) (discussing steps by the FCC, Congress, and the Administration to remove siting barriers to wireless broadband deployment), http://wia.org/wp-content/uploads/Advocacy_Docs/13-975_TSAC_PCIA.pdf; Brief of CTIA – The Wireless Association® as *Amicus Curiae* in Support of Respondent, *Missouri Municipal League v. Missouri*, Mo. S. Ct. No. SC95337, at 14-33 (filed Mar. 14, 2016) (discussing state and federal efforts to remove barriers to infrastructure deployment needed to expand broadband access), <http://sf8.colorado.ctia.org/docs/default-source/Legislative-Activity/ctia-missouri-amicus-brief-re-tower-siting.pdf?sfvrsn=2>.

under Section 106 of the National Historic Preservation Act (“NHPA”),⁸ subject to the refinements and clarifications requested below.

A. Proximity to a Historic District Should Be Irrelevant to Small Deployments Outside of a Historic District.

ExteNet supports the proposal in Stipulation VI to exclude small deployments on non-tower structures located outside of a historic district from Section 106 review, but recommends that the exclusion apply irrespective of proximity to a historic district. Thus, the caveat that the exclusion not apply if the deployment is located “within 250 feet of” and visible from a historic district should be eliminated.⁹ That proposed proximity carve-out tracks language in the 2001 Collocation Agreement, which excludes certain collocations on non-tower structures from Section 106 review unless, among other things, the collocation is “within 250 feet of” and visible from a historic district.¹⁰ The 2001 exclusion, however, was drafted with larger macrocells in mind,¹¹ and policies drafted for “that kind of macrocell deployment” are not appropriate for small deployments that are “that are far less obtrusive.”¹² Thus, while proximity restrictions might have made sense in 2001 for larger and far more visible macrocell deployments, they

⁸ 54 U.S.C. § 306108 (formerly codified at 16 U.S.C. § 470f).

⁹ Draft Amended Agreement, § VI.A.1.

¹⁰ Collocation Agreement, § V.A.2.

¹¹ See *Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, Report and Order, 29 FCC Rcd 12865, 12866 ¶ 3 (2014) (“*2014 Infrastructure Report and Order*”) (recognizing that policies like the Collocation Agreement were “drafted at a time when antennas were huge and bolted to the top of enormous towers”); *id.* at 12876 ¶ 24 (noting that “[o]ur environmental and historic preservation rules have traditionally been directed toward the deployment of macrocells on towers and other tall structures”).

¹² *Id.* at 12866-67 ¶ 3; see also *id.* 12870 ¶ 11 (explaining that “physically small facilities like those used in DAS networks and small-cell systems” are “a fraction of the size” of the “large-scale antennas and structures that our review processes were designed to address”).

make no sense today in the context of small facility deployments, especially those that fall within the volume limits specified in the proposed exclusion.¹³

B. The Proposed Exclusion for Small Wireless Installations on Utility Structures in or Near Historic Districts Is Particularly Important.

ExteNet enthusiastically supports the proposed addition of Stipulation VII.B, which would provide an exclusion from the Section 106 process for small wireless antennas (including associated equipment) mounted on utility structures that are located in or near historic districts or on historic properties.¹⁴ Utility poles are a critical siting option for distributed networks, particularly as WSPs seek to densify their networks where demand for mobile broadband capacity is high. As the Commission has recognized, “small cells and DAS antennas can be placed on utility poles [and other structures] in areas where constructing towers is not feasible or wireless traffic demands are too great to be met solely with fewer large cells.”¹⁵ The proposed Stipulation VII.B will remove a barrier to robust use of utility poles for small wireless facility deployment: unnecessary historic preservation review of minimally impactful small wireless facilities, which can delay or defer beneficial wireless broadband deployments. As a result, the Commission will help make siting on utility poles an even more realistic siting option throughout the country, without compromising the character of properties that have historical significance.

¹³ See Draft Amended Agreement, § VI.A.4.

¹⁴ See Public Notice at 4; Draft Amended Agreement, § VII.B.

¹⁵ See, e.g., *Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, Including Commercial Mobile Services*, Eighteenth Report, 30 FCC Rcd 14515, 14560 ¶ 63 (2015).

C. The SHPO Review Period for the Proposed Traffic/Light Pole Exclusion Should Be Eliminated or, at a Minimum, Shortened to Fifteen Days.

ExteNet likewise supports the Commission's proposed exclusion for small wireless facilities mounted on traffic control structures or light poles in or near historic districts (Stipulation VII.C), but recommends eliminating the special "case-by-case" State Historic Preservation Office ("SHPO") review period.¹⁶ The proposed exclusion only applies if the traffic/light pole itself is not historic, and infrastructure providers already work with qualified preservation experts to make this assessment. These experts are likewise fully able to assess whether the structure is a contributing element to a historic district. Moreover, the Draft Amended Agreement also includes a safety net: proposed Stipulation VII.E provides that any small antenna installation subject to Stipulation VII generally must be installed in a way that does not damage historic materials and permits removal "without damaging historic materials."¹⁷ These protections obviate the need for a special SHPO review process to confirm that a traffic/light structure is not a contributing element.

If the Commission nevertheless retains the case-by-case SHPO review process, it should be should expedited. While a SHPO is normally afforded thirty days to review a submission packet for a non-excluded site (involving the detailed examination of how the proposed site may or may not adversely impact historic properties in the area of potential effects),¹⁸ the inquiry

¹⁶ Public Notice at 4-5; Draft Amended Agreement, § VII.C.3. As proposed, a DAS or small cell provider cannot take advantage of this exclusion unless it (i) submits a written request to the SHPO seeking confirmation that the structure in question is not a contributing element to the historic district, and (ii) gives the SHPO thirty days to respond.

¹⁷ Draft Amended Agreement, § VII.E.

¹⁸ See Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission, 47 C.F.R. Part 1, App. C, § VII.A.2 ("NPA") (establishing the thirty-day review period for a submission packet). The "New Tower Submission Packet" (FCC Form 620, *available at* <https://transition.fcc.gov/Forms/Form620/620.pdf>) and the "Collocation Submission Packet" (FCC Form 621, *available at*

under the proposed exclusion is far more limited, *i.e.*, whether the SHPO agrees that the proposed traffic/light structure is not a contributing element. Shortening the SHPO response period to fifteen days would be consistent with the much narrower nature of the request being made, thereby expediting the deployment process while still leaving the SHPO time to make an informed ruling.

D. The Commission Should Clarify the Interplay Between the Proposed Exclusions and Those Adopted in the 2014 Infrastructure Order.

The Commission should also clarify the interplay between the Section 106 exclusions proposed in the Public Notice and the more limited Section 106 exclusions adopted in the *2014 Infrastructure Report and Order*.¹⁹ According to the Public Notice, “[t]he proposed Amended Collocation Agreement ... would *supplement* the two targeted exclusions from Section 106 review and the NPA” that the Commission adopted in the *2014 Infrastructure Report and Order* for distributed network deployments, as well as the exclusions set forth in the Collocation Agreement, as adopted in 2001.²⁰ It is confusing to have the Section 106 exclusions separated into two documents, particularly where exclusions that apply to the same type of underlying structure may overlap and/or have slightly different terms.²¹ Ideally, the Section 106 exclusions

<https://transition.fcc.gov/Forms/Form621/621.pdf>) detail the contents of a submission packet that must be submitted to the SHPO for review.

¹⁹ See *2014 Infrastructure Report and Order*, 29 FCC Rcd at 12906-12 ¶¶ 90-103.

²⁰ Public Notice at 3 (emphasis added).

²¹ For example, proposed Stipulation VII.B would create a new exclusion for the collocation of small wireless antennas (including associated equipment) mounted on utility structures in or near historic districts or on historic properties. The proposed exception would apply if, among other things, the associated wireless equipment has a volume of no more than 21 cubic feet and any ground disturbance does not exceed any previous disturbance. By contrast, the existing utility exclusion adopted in the *2014 Infrastructure Report and Order* applies where the underlying structure is *not* in a historic district or on a historic property, but yet has *more* restrictive limits: 17 cubic feet for the permitted volume of the associated wireless equipment, and ground disturbance that does not exceed previous disturbance less a two-foot buffer. *2014 Infrastructure*

adopted pursuant to the Public Notice and the *2014 Infrastructure Report and Order*, respectively, should be integrated into a single document that will subsume the field – the Collocation Agreement, as amended – so that providers will understand the rules they must follow, SHPOs will understand the rules they must apply, and the FCC is clear about the rules it will enforce. At a minimum, if the Commission chooses to retain the limited 2014 exclusions in its rules while adding new broader exclusions via amendments to the Collocation Agreement, the Commission should make clear how the existing and the proposed exclusions relate to and/or are distinct from one another.

E. The Commission Should Resolve Confusion Associated with Certain Terms Used in the Proposed Amendments to the Collocation Agreement.

Finally, the Commission should eliminate any confusion associated with the terms “antenna” and “non-tower structure,” as used in the Draft Amended Agreement. As proposed in Stipulation 1.A, the definition of “antenna” is comprehensive and includes the antenna itself as well as “any on-site equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with that antenna.”²² Yet, when applying volumetric limits and other conditions for various of the proposed exclusions, the term “antenna” is sometimes used more narrowly to refer to the antenna only, “excluding associated equipment” or portions of the “associated equipment.”²³ The Commission should resolve these tensions. In addition, the Commission should define the term “non-tower structure.” While the term is used throughout the Draft

Report and Order, 29 FCC Rcd at 12906-07 ¶¶ 90-94. The existing exclusion should be integrated into the Collocation Agreement, and these discrepancies should be harmonized.

²² Draft Amended Agreement, § 1.A.

²³ Compare Draft Amended Agreement, § 1.A (defining “antenna” broadly to include the antenna and associated wireless equipment) with §§ VI.A.4.a (using the term “antenna” narrowly to include only the antenna itself and excluding associated equipment), VII.A.1 (same), VII.B.1 (same), VII.C.5.a (same), VII.D.1.b.i (same).

Amended Agreement, it is not defined in Stipulation 1.A or anywhere else in the proposed amendments. As discussed above, both regulators and the public are better served by clear terms that are defined and used consistently to avoid ambiguity.

III. CONCLUSION

Over the past several years, the Commission has made substantial progress towards creating a regulatory paradigm that promotes deployment of wireless and broadband infrastructure, including distributed networks, without undermining legitimate preservation interests. The Draft Amended Agreement is the next logical step in that effort. ExteNet strongly supports the proposal, and urges the Commission to quickly adopt these amendments, subject to the issues raised in these comments.

Respectfully submitted,

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